

APPENDIX E

RECOMMENDED STATUTORY CHANGES

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The Energy Commission suggests that the Legislature adopt the statutory changes below, in order to implement the recommendations discussed in Chapter 6. (Removed text is indicated by strikeout; new text is indicated by italics and underlining.)

1. *Financial Information*

Amend California Public Resources Code section 25354, subdivision (b)

(b) Each major oil producer, refiner, marketer, oil transporter, and oil storer shall annually submit information to the commission in such form and extent as the commission prescribes pursuant to this section. *The commission may determine the form and extent necessary by order or by regulation.* The information shall be submitted within 30 days after the end of each reporting period, and shall including the following:

* * * *

(6) Each person required to report pursuant to this subdivision shall annually submit to the commission such financial information as the commission may determine necessary for the purpose of analyzing and reporting upon the profits, earnings and other financial conditions of the California petroleum industry, including, without limitation, financial information pertaining to exploration and production; transportation (whether by one or more of marine vessel, pipeline, rail or tanker truck); refining; marketing; trading; retail; and such other industry functions as the commission deems necessary and appropriate for purposes of this section. Except to the extent previously made public by the person supplying the information, the financial information obtained pursuant to this subdivision shall be held in confidence by the commission. Any report of the commission pursuant to this subdivision shall only include confidential financial information if the information is aggregated to the extent necessary to assure confidentiality, if public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information.

2. Costs Reporting

Amend California Public Resources Code section 25354, subdivisions (h) and (i).

(h) Each refiner shall submit to the commission within 30 days after the end of each monthly reporting period, all of the following information in such form and extent as the commission prescribes:

(1) Monthly ~~California~~ weighted average cost, prices and sales volumes of finished leaded regular, unleaded regular, and premium motor gasoline sold within California through company-operated retail outlets, to other end-users, and to wholesale customers.

(2) Monthly ~~California~~ weighted average cost, prices and sales volumes for residential sales, commercial and institutional sales, industrial sales, sales through company-operated retail outlets, sales to other end-users, and wholesale sales of No. 2 diesel fuel and No. 2 fuel oil, sold in California.

(3) Monthly ~~California~~ weighted average cost, prices and sales volumes for retail sales and wholesale sales of No. 1 distillate, kerosene, finished aviation gasoline, kerosene-type jet fuel, No. 4 fuel oil, residual fuel oil with 1 percent or less sulfur, residual fuel oil with greater than 1 percent sulfur. And consumer grade propane, sold in California.

(i)(1) Beginning the first week after the effective date of the act that ~~added~~ amends this subdivision (i), and each week thereafter an oil refiner, oil producer, petroleum product transporter, petroleum product marketer, petroleum product pipeline operator, petroleum trader, and terminal operator, as designated by the commission, shall submit a report in the form and extent as the commission prescribes pursuant to this section. The commission may determine the form and extent necessary by order or by regulation.

(2) A report may include any of the following information:

(A) Receipts, weighted average cost, and inventory levels of crude oil and petroleum products at each refinery and terminal location, within and without California.

(B) Amount, weighted average cost, and weighted average sales price, by category, of gasoline, diesel, jet fuel, blending components, and other petroleum products imported into, and exported from, California.

(C) Amount, weighted average cost of transportation, by category, of gasoline, diesel, jet fuel, blending components, and other petroleum products transported intrastate by marine vessel.

(D) Amount and weighted average cost of crude oil imported into California, and imported into the United States, excluding California, including information identifying the source of the crude oil.

(E) The regional average of invoiced retailer buying price, by product, and associated regional average cost of each product sold to such retailer. This subparagraph does not either preclude or augment the current authority of the commission to collect additional data under subdivision (f).

(F) Daily spot market trading activity, including prices, quantities, delivery dates, identity of trading partners, and such other information as the commission deems necessary and appropriate for the purposes of this chapter.

(3) This subdivision is intended to clarify the commission's existing authority under subdivision (f) to collect specific information. This subdivision does not either preclude or augment the existing authority of the commission to collect information.

3. Spot Market Trading Activity

Amend California Public Resources Code section 25354, subdivisions (i)(1) and (i)(2)(F), as shown above.

Marine Terminal Operations

Amend Cal. Public Resources Code section 25354 by adding a new subdivision (j).

(j) The commission may, by rule or order, collect data from owners and operators of marine petroleum terminals, owners and operators of marine vessels shipping petroleum products, the Southern California Marine Exchange and its successors, and from the Marine Exchange of the San Francisco Bay Region and its successors, such information as it deems necessary and appropriate to analyze and report upon actual and potential congestion at marine petroleum terminal facilities within the state. Each person required to report pursuant to this subdivision shall provide this information at such interval and in such format as determined by the commission. Except to the extent previously made public by the person supplying the information, the information obtained pursuant to this subdivision shall be held in confidence by the commission. Any report of the commission pursuant to this subdivision shall only include confidential marine petroleum terminal information if the information is aggregated to the extent necessary to assure confidentiality, if public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information, or would infringe upon proprietary information or divulge information constituting a trade secret.

4. Confidentiality – Information Sharing with the Attorney General

Amend California Public Resources Code section 25364, subdivisions (g).

(g) Notwithstanding any other provision of law, the commission may disclose confidential information received pursuant to: ~~subdivision (a) of Section 25304 or Section 25354 to the State Air Resources Board if the state board agrees to keep the information confidential. With respect to the information it receives, the state board shall be subject to all pertinent provisions of this section.~~

(1) Subdivision (a) of Section 25304 or Section 25354 to the State Air Resources Board if the state board agrees to keep the information confidential. With respect to the information it receives, the state board shall be subject to all pertinent provisions of this section; and

(2) Section 25354 to the California Attorney General if the Attorney General provides a written request for the information, in connection with an ongoing investigation. With respect to the information the Attorney General receives, the Attorney General shall be subject to all pertinent provisions of Cal. Government Codes sections 11180, et seq. pertaining to confidentiality of investigatory records.

5. Contact Information for Retail Service Stations

Amend California Civil Code section 1798.69.

1798.69. Release of names and addresses; State Board of Equalization

(a) Except as provided in subdivision (b), the State Board of Equalization may not release the names and addresses of individuals who are registered with, or are holding licenses or permits issued by, the State Board of Equalization except to the extent necessary to verify resale certificates or to administer the tax and fee provisions of the Revenue and Taxation Code.

(b) Nothing in this section shall:

(i) Prohibit the release by the State Board of Equalization to, or limit the use by, any federal or state agency, or local government, of any data collected by the board that is otherwise authorized by law; and

(ii) Prohibit the release by the State Board of Equalization to the State Energy Resources Conservation and Development Commission of any data collected by the board that identifies by name, address, or telephone number, business entities engaged in the retail sale within the state of gasoline or diesel fuel.